discovered evidence. Therefore, any difference in result that may be expected upon the new trial will be caused rather by the absence of the formerly uncontradicted evidence rather than by the effect of the newly-discovered evidence upon the jury.

PARENT AND CHILD—EMPLOYERS' LIABILITY ACT AS AFFECTING FATHER'S RIGHT TO RECOVER FOR INJURIES TO CHILD.—Plaintiff's minor son, while engaged as an employee of defendant in interstate commerce, was injured through the negligence of the defendant. *Held,* the father can maintain an action independent of the son's right under the Federal Employers' Liability Act, for services and earnings of said minor son up to the time of his majority. *Nelson* v. *Illinois Central R. Co.* (Iowa 1915), 155 N. W. 169.

At common law the parent had a right to recover for loss of services and earnings up to twenty-one when a minor child was wrongfully injured. *Hussey* v. *Ryan,* 64 Md. 426, 54 Am. Rep. 772. The principal case supports the doctrine that such common law right is not removed by the Federal Employers' Liability Act. The same question arose in *Tonsellito* v. *N. Y. Cent. & H. R. R. Co.,* 87 N. J. Law 651, 94 Atl. 804. The court said, "But we do not construe the federal act as repealing either expressly or impliedly the father's right of action as it existed at common law. It purports to deal only with cases involving the death of the employee, and in the absence of an intent, clearly expressed or necessarily implied, that congress intended to take away by this corrective and remedial act the legal status of third parties as fixed by the immemorial rules of the common law, we must assume that such rights still subsist unimpaired." The Massachusetts court has asserted the same doctrine with reference to the Workmen's Compensation Act of the state in *King* v. *Viscoloid Co.,* 219 Mass. 420, 106 N. E. 988. Vide 13 MICH. LAW REV. 428.

POWERS—EXERCISE OF A NON-EXCLUSIVE POWER TO APPOINT AMONG CHILDREN.—By will a life-estate in certain property was given to X, together with a power to appoint it to his wife and heirs at law; in default of appointment, the property was to go to them according to the law of descent in force in Kentucky at that time. By will X appointed $1,000 to each of his brothers and sisters, and the rest, nearly $150,000, to trustees for the use of his wife for life, and then for his children as she should appoint by will. The distribution was made according to the terms of the will. The wife died three years later, having made an appointment of all the property. This action was brought by the heirs-at-law of X to have the appointment made by his will set aside, on the ground that under the power through which he made the appointment he was bound to appoint a substantial share to each of them, and that the $1,000 each had received was not such substantial share. *Held,* the appointment was invalid, being under a non-exclusive power, and not giving to each member a substantial share. *Barret's Ex'rs* v. *Barret* (Ky. 1915), 179 S. W. 396.

In reviving the illusory appointment doctrine the Kentucky court has had recourse to an argument almost as old as the subject of appointments.